

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3017 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

RAMESHCHANDRA N PATEL

Versus

STATE OF GUJARAT

Appearance:

Shri Prashant G. Desai, Advocate, for Shri G.N.Desai, Advocate, for the Petitioners.

Shri T.H.Sompura, Assistant Government Pleader, for the Respondent.

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 19/06/96

ORAL JUDGEMENT

The order passed by and on behalf of the State

Government (the respondent herein) on 14th June 1983 directing the petitioners to maintain Status Quo with respect to the subject-matter of this petition in contemplation of the proceeding under section 34 of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act for brief) is under challenge in this petition under Article 226 of the Constitution of India.

2. The facts giving rise to this petition move in a narrow compass. Petitioners Nos.1 to 6 appear to have sold their respective lands within the ceiling limit for the purposes of the Act to petitioner No.7 after obtaining the permission under section 26 thereof. It appears that the order passed by the Competent Authority under section 26 of the Act in each case came to the notice of the concerned officer of the respondent. He appears to have found each order not according to law. It appears that its revision under section 34 of the Act was thereupon contemplated. However, before initiating any proceeding thereunder, an interim direction was ordered to be issued on 14th June 1983 directing petitioners Nos.1 to 6 to maintain status quo with respect to the subject-matter of such permission in each case. Its copy is at Annexure-C to this petition. That aggrieved the present petitioners. They have therefore approached this Court by means of this petition under Article 226 of the Constitution of India for questioning its correctness.

3. The question whether or not an interim direction under section 34 of the Act without initiating any action thereunder can be issued is no longer res integra. The Division Bench of this Court in its ruling in the case of VASANTLAL CHHOTALAL KHANDVALA v. STATE OF GUJARAT reported in AIR 1994 GUJARAT at page 26 has held that no interim direction can be issued under the aforesaid statutory provision without initiating any action or proceeding thereunder. It is obvious that an action or a proceeding thereunder can be initiated only by issuing a show cause notice.

4. As pointed out hereinabove, the impugned order at Annexure-C to this petition has been issued in contemplation of an action or a proceeding under section 34 of the Act. I am informed by learned Assistant Government Pleader Shri Sompura for the respondent that a show cause notice under section 34 of the Act has come to be issued on 1st October 1983. That is certainly after the order at Annexure-C to this petition. It cannot be sustained in law in view of the aforesaid binding Division Bench ruling of this Court.

5. In the result, this petition is accepted. The order passed by and on behalf of the State Government (the respondent herein) on 14th June 1983 at Annexure-C to this petition is quashed and set aside. It is however clarified that this judgment of mine shall not preclude the respondent from proceeding with the show cause notice issued on 1st October 1983 under section 34 of the Act if the matter is pending. Rule is accordingly made absolute with no order as to costs.

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